THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3218 OF 2006

DATED: 24-07-2007

BETWEEN

S.K. Basheed,
S/o. Late Ibrahim,
Occ: Business,
R/o. Flat No.G.204,
Girisikara Enclave,
Erramanjil Colony,
Hyderabad.

...PETITIONER

AND

The Government of Andhra Pradesh, Rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents 3 to 5 in opening rowdy sheet against him and transferring the same to respondents 6 and 7 as illegal and arbitrary and consequently to set aside the rowdy sheet opened against him in Banjara Hills Police Station.

2. Learned counsel for the petitioner submits that the petitioner is a native of Tenali of Guntur District and he shifted to Hyderabad ten years ago and carrying on business in the name and style of Bajju Earth Movers. He further submits that the petitioner purchased two plots in Banjara Hills i.e. 1) bearing MCH No.8-2-547/31/1, in an extent of 1000 sq. yards situated at Road No.7

Banjara Hills and

2) bearing MCH No.8-2-120/76/1 in an extent of 440 sq. yards situated at Road No.2, Banjara Hills. While so, the Inspector of Police, Banjara Hills Police Station called the petitioner to the police station and stated that he should compromise the dispute relating to the said lands with some persons, who also claim title to the said lands and as the petitioner did not listen, the Inspector of Police, registered a false case in Cr.No.471 of 2005 under Sections 148, 447 and 324 of the Indian Penal Code, 1860. He further submits that the police demanded the petitioner to part with 300 sq. yards of site for his release even in spite of obtaining anticipatory bail. He further submits that as the petitioner was illegally detained, his wife filed Habeas Corpus petition before this Court in W.P.No.14352 of 2005 and after receiving the message the police have registered two more cases against him and produced him before the Court in bailable offences.

3. Learned counsel for the petitioner further submits that the petitioner also approached the Human Rights Commission and also filed W.P.No.14756 of 2005 seeking direction against the Station House Officer, Banjara Hills, not to open rowdy sheet and the said writ petition was admitted and notices were issued to the respondents.

He further submits that thereafter three false cases in Cr.No.429 of 2005 under Sections 448, 341, 427 and 506 IPC; Cr.No.437 of 2005 under Sections 427, 341, 448 and 506 IPC and Cr.No.471 of 2005 under Sections 148. 447 and 324 IPC have been registered and all the three cases pertain to property disputes and purely civil in nature. Questioning the said registration of criminal cases the petitioner filed Criminal Petition Nos.3337, 3338 and 3339 of 2005 before this Court to quash the same and this Court granted stay of all further proceedings. He further submits that two other cases have been registered against the petitioner in Cr.Nos.980 and 981 of 2005 under Sections 447, 342 and 506 IPC and they are also bailable cases.

Thus, it is the case of the petitioner that he has not committed any offence or involved in any criminal case involving breach of peace and all the cases pending against him are relating to property disputes; therefore, rowdy sheet

cannot be opened against him.

4. Counter has been filed on behalf of the respondents by the Inspector of Police, Banjara Hills, Hyderabad, denying all the allegations made against the police and stated that the petitioner was bound over in (7) seven cases under Section 110 of the Code of Criminal Procedure, 1973, of Tenali III Town Police Station. It is further stated that initially the petitioner was working as Lorry driver in Tenali of Guntur District and later he became a wealthy man by earning money illegally. It is stated that on the intervening night of 5/6.06.2005 the petitioner criminally trespassed into Plot Nos.90 and 91 situated at Nizam's Layout in Sy.No.403, Road No.2, Banjara Hills belonging to one Smt. Urmila Reddy and beat the watchman, Aziz, with sticks causing injuries with an intention to grab the property, therefore, an attempt was made to arrest him, but he absconded and obtained anticipatory bail. As per the orders of this Court the petitioner himself surrendered before the Investigation Officer and he was enlarged on bail. It is stated that the police never detained the petitioner illegally and threatened him to part with 300 sq. yards of land as alleged by him. The petitioner is involved in the following cases:

1. Cr.No.429 of 2005, under Sections 448, 341 and 506 IPC
2. Cr.No.437 of 2005, under Sections 448, 341, 427 and 506 IPC and
3. Cr.No.471 of 2005, under Sections 148, 447 and 324 IPC

on the file of Banjara Hills Police Station.

5. It is further stated that taking advantage of the interim stay of investigation with regard to the aforesaid crimes, the petitioner along with his henchmen again criminally trespassed into plot No.1 and A-A in Sy.No.129/65 (New 242), Road No.7, Banjara Hills, belonging to
Sri K. Chandra Mouli Reddy on 08.12.2005 and threatened the security personnel with dire consequences and confined them in a room, accordingly, fourth case in Cr.No.980 of 2005 under Sections 447, 342 and 506 IPC was registered against the petitioner and on the same day the petitioner along with his henchmen criminally trespassed into Plot No.2, Road No.7, Banjara Hills

belonging to Dr. B. Uma Ranga Sai and threatened the security personnel and confined them in a room. Therefore, another case in Cr.No.981 of 2005 was registered under Sections 447, 342 and 506 IPC against the petitioner. Thus, it is the case of the respondents that on specific complaints only the aforesaid cases have been registered against the petitioner but not *suo motu*. When the petitioner resorted to crime in the Banjara Hills Police Station limits, a rowdy sheet was opened against him on 06.07.2005 to keep surveillance over his activities and subsequently the rowdy sheet was transferred to Panjagutta Police Station on 18.07.2005 for further maintenance on the point of jurisdiction since the petitioner resides in the limits of Panjagutta Police Station.

Apart from those five cases, it is stated that the petitioner was also involved in criminal cases in Cr.No.64 of 1999 under Section 376 read with 34 IPC and Cr.No.63 of 1999 under Section 324 IPC of Tenali III Town Police Station. The petitioner was also bound over under Section 110 Cr.P.C in seven cases vide Cr.Nos.136 to 142 of 2002 of Tenali III Town Police Station. Thus, it is stated that the petitioner is still resorting to land grabbing and involving in other criminal activities. The petitioner is also involved in other two criminal cases in Cr.No.65 of 2004 under Sections 143, 341, 343 and 324 IPC and Cr.No.100 of 2004 under Sections 504 and 506 IPC of Amarabad Police Station of Mahabubnagar District. Thus, it is stated that due to the involvement of the petitioner in criminal cases, it has become inevitable to open the rowdy sheet against him.

6. Learned counsel for the petitioner submits that even assuming that there were bound over proceedings against the petitioner, the period of bound over is already over and therefore, they will not come in the way of discontinuing the rowdy sheet.

7. I am unable to accept the said contention as the reading of order 602 of the Andhra Pradesh Police Manual Part – I Volume – II goes to show that once a person is bound over under Section 110 Cr.P.C, a rowdy sheet can be

opened and continued against him and no period is mentioned in the said order.

8. No reply has been filed to the counter about the seven bound over cases under Section 110 Cr.P.C on the file of Tenali III Town Police Station and about the pendency of the aforesaid criminal cases. Under Order 601 of the Andhra Pradesh Police Manual Part – I Volume – II, a person can be classified as a rowdy and the rowdy sheet is liable to be opened, if he habitually commits, attempts to commit or abets commission of offence involving breach of peace, disturbance to public order and security. A rowdy sheet can also be opened against persons bound over under Section 106, 107, 108 and 110 Cr.P.C. Once a rowdy sheet is opened the period of retention of the rowdy sheet can be continued from to time. Under Order 602-2, merely because a rowdy is not figuring as accused in the previous five years of registration of the last case it should not preclude the authorities to continue the rowdy sheet, if the concerned authority is of the opinion that his activities are prejudicial to the maintenance of public order or one affecting peace and tranquility in the area. In the instant case,
it cannot be said that the activities of the petitioner are not affecting peace and tranquility and are not prejudicial to maintenance of public order. Therefore, I am of the opinion that to have surveillance over the activities of the petitioner, the rowdy sheet was rightly opened and I do not see any illegality in opening the rowdy sheet and continuing the same.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

July 24th, 2007
DSK